

Phase IV Escrow Fund Agreement

This agreement (the "**Phase IV Escrow Fund Agreement**") is made and entered into this 2nd day of April, 2002, by, between and among the Regional Transit Authority ("**RTA**") herein represented by Robert Tucker, Chairman of its Board of Commissioners, acting pursuant to a Resolution of its Board of Commissioners, attached hereto as Exhibit A, the Ernest N. Morial New Orleans Exhibition Hall Authority ("**ENMNOEHA**"), appearing herein through Ralph Brennan, its President, acting pursuant to a Resolution of its Board of Directors, attached hereto as Exhibit B, and the New Orleans Tourism Marketing Corporation ("**NOTMC**"), appearing herein through Sandra Shilstone, its Executive Vice President and Director of Marketing, acting pursuant to a Resolution of its Board of Directors, and attached hereto as Exhibit C.

R E C I T A L S :

A. WHEREAS, the Louisiana Legislature has conferred broad powers upon the Regional Transit Authority and its Board of Commissioners ("**RTA**"), for the health, safety, convenience, and welfare of the public, pursuant to the provisions of R.S. 48:1651 et. seq. including, but not limited to, the responsibility to develop a mass transportation system through a joint instrumentality of the local governments within the New Orleans metropolitan area, to improve and correct deficiencies in mass transportation, to coordinate and balance the transportation facilities operating therein, to otherwise provide a sounder basis for the development of traffic patterns and control,

and generally to do all things necessary or proper in furtherance of the public policy of this state to facilitate the accomplishment of its purposes; and

B. WHEREAS, the Ernest N. Morial New Orleans Exhibition Hall Authority (“**ENMNOEHA**”), is a political subdivision of the State of Louisiana, established by Act 305 of 1978, as amended, with broadly granted legal authority to develop properties in the Parish of Orleans, and has caused the construction, operation, and expansion of the world-class Ernest N. Morial Convention Center-New Orleans (the “**Convention Center**”), located on the East Bank of the Mississippi River, including the construction of a multi-million dollar, elevated pedestrian walkway over the Convention Center (the “**Skywalk**”), retained in an operable condition by ENMNOEHA, that is suitable for providing pedestrian access between Convention Center Boulevard and the Riverfront Streetcar transit line by escalators and elevators at a Riverfront Streetcar landing constructed by ENMNOEHA within the public servitude areas of the traditional Mississippi River rail corridor; and

C. WHEREAS, the New Orleans Tourism Marketing Corporation (“**NOTMC**”) is a non-profit Louisiana economic development corporation, duly organized and existing pursuant to the *Louisiana Cooperative Economic Development Law* (R.S. 33:9020 *et seq.*), which, pursuant to its purpose successfully works and endeavors cooperatively with various public and private members of the tourism, hospitality and convention industries, as well as the City of New Orleans, to plan, furnish and provide needed

services to market and promote the City of New Orleans as a convention and tourist destination, to encourage the construction of new facilities and the expansion of existing facilities, to stimulate and enhance the economy of the City of New Orleans and thereby reduce conditions of economic distress within the City of New Orleans; and

D. WHEREAS, the RTA at present maintains and operates the City's historic streetcar lines and the Riverfront streetcar lines adjacent to the Convention Center, which serve as both tourist attractions and as viable means of clean and reliable transportation; and

E. WHEREAS, tourists, conventioners, trade show participants, and the public need safe, efficient, dependable, and reliable transportation, including the planning, implementation, and marketing of such transportation, in order to allow for ease of transportation between the many attractions and facilities offered by the City of New Orleans, to reduce traffic, wear on roads, air pollution, and the use of valuable hotel, trade show, and convention center properties for parking of vehicles; and

F. WHEREAS, ENMNOEHA is presently planning a fourth phase expansion of the Convention Center ("**Phase IV**"), in order to allow the facility to continue to accommodate growing demand and remain competitive with the country's larger convention centers, which in turn will bring in more tourists and hotel occupants, and a corresponding increase in the need for public transportation; and

G. WHEREAS, ENMNOEHA utilizes certain hospitality-industry-related taxes to retire bonded indebtedness issued to finance the construction and expansion of the Convention Center, including its two previous major expansion projects, which were necessitated since its opening in 1985, in order to allow the facility to accommodate ever growing demand; and

H. WHEREAS, ENMNOEHA, NOTMC and the RTA each acknowledge the importance of the hospitality, convention and tourism industries as major and significant factors of the New Orleans economy, and the many relationships between and interdependence of the need for accessible and adequate public transportation and the tourism and hospitality industries including, but not limited to: (i) the need for reliable public transportation by hospitality industry workers to get to and from their places of employment, (ii) the need for a punctual and reliable work force to serve and satisfy visiting tourists and conventioners, (iii) the direct relationship between the pleasurable experience of visiting tourists and conventioners and the probability that they will return to the City again in the future, (iv) the transportation needs of visiting tourists and conventioners while visiting the City, (v) the uniqueness of the historic streetcars and the proposed light rail system(s) as tourist attractions and viable means of needed transportation, (vi) the significant economic impact of returning tourists and conventioners, (vii) the long term planning required for the construction of transportation facilities and the hosting of major conventions and trade shows, (viii) the cost of operation of the Convention Center at an operational deficit due to competition from other cities and the need to charge competitive rates for Convention Center

bookings and services, (ix) the need to fund the proposed Phase IV expansion of the Convention Center in order to keep the facility competitive and to allow the facility to continue to host ever growing trade shows and associations, (x) the direct relationship between tourism and convention bookings and hotel occupancy, demand, and expansion, (xi) the relationship between increased tourism and convention bookings and the increased transportation needs of visiting attendees, hospitality workers, and construction workers, (xii) the efficiencies and economies gained by supplementing local ridership on transit services with visitor ridership, thus reducing the cost per rider of maintaining appropriate frequency and quality of service, (xiii) the desirability of supplementing local fare box revenues with visitor-generated fares, which import money from outside the regional economy to assist in financing local transit; (xiv) the desirability of incorporating local transit and transportation system plans as an item for consideration in Convention Center planning; (xv) the direct relationship between increased tourism, and increases in the sales and use taxes, including the RTA Tax (Hotels), and the corresponding relationship with the funding of public transportation instrumentalities, NOTMC's funding, the payment of ENMNOEHA's bonded indebtedness and needed Convention Center expansion; and

I. WHEREAS, ENMNOEHA, the RTA and NOTMC, pursuant to their purposes and authority, can and should jointly plan and contribute to the economic development of the City of New Orleans and the metropolitan area, and cooperatively endeavor through long-term planning and implementation to meet the needs of both local and visiting transit users, including participation in cooperative endeavors to facilitate the

construction of the planned Phase IV Expansion of the Convention Center; and

J. WHEREAS, the RTA and NOTMC entered into an Agreement for Services and Cooperative Economic Endeavor on June 1, 2000 (the "**Cooperative Endeavor Agreement**") a copy of which is attached hereto and incorporated by the reference as Exhibit D; which contemplates the execution of this Phase IV Escrow Fund Agreement in Sections 4.2, 4.3, and 4.4 thereof; and

K. WHEREAS, the Attorney General of the State of Louisiana has reviewed the Cooperative Endeavor Agreement and has issued a written opinion which concludes that the Cooperative Endeavor Agreement is valid, enforceable, and properly effected in the public interest, pursuant to the Constitution and Laws of the State of Louisiana; and

L. WHEREAS, the Cooperative Endeavor Agreement has also been attached to the Final Judgment rendered on the 2nd day of June, 2000, by the Civil District Court for the Parish of Orleans, State of Louisiana, in the matter entitled "Regional Transit Authority v. Marina Kahn, et al.", bearing docket No. 99-11874, Division "I" of said Court, (the "Mandamus/Declaratory Suit"), which Final Judgment has become final and definitive following the expiration of all legal time for appeal, and the Cooperative Endeavor Agreement was therefore approved in connection with a considered Judgment of said Court in connection with the entry of the considered, Final Judgment;

and

M. WHEREAS, Capitalized words used as defined terms herein and which are not otherwise defined herein, shall have the meaning and definition ascribed to them in the attached Cooperative Endeavor Agreement; and all provisions hereof shall be construed in a manner that is consistent with and that facilitates fulfilling the intent of said Cooperative Endeavor Agreement; and

N. WHEREAS, the RTA, ENMNOEHA and NOTMC do hereby declare that the confection of this Phase IV Escrow Fund Agreement pursuant to the Cooperative Endeavor Agreement is reasonable, necessary and/or appropriate and in the public interest; and

O. WHEREAS, this agreement has been entered into and confected and is, together with the Cooperative Endeavor Agreement incorporated herein by reference, approved and executed in accordance with the provisions of R.S. 33:1321 *et. seq.*

NOW, THEREFORE, in consideration of the foregoing, and in consideration of the promises each party has made to each other party, and in furtherance of their purposes and in the public interest, the RTA, ENMNOEHA and NOTMC do hereby enter into this Phase IV Escrow Fund Agreement and do now hereby mutually bind and obligate themselves each to each, to the following obligations, covenants, terms and conditions:

I.

DEFINITIONS

1.1 As used herein, the following terms shall have the following meanings:

- A) **"Additional Portion"** has the meaning ascribed to it in the Cooperative Endeavor Agreement attached hereto as Exhibit D.
- B) **"Administrator"** shall mean the person or entity appointed to administer the ENMNOEHA-Transit Fund pursuant to Section 4.1 hereof.
- C) **"Agreement"** means this Phase IV Escrow Fund Agreement By and Among the Regional Transit Authority, the Ernest N. Morial New Orleans Exhibition Hall Authority, and the New Orleans Tourism Marketing Corporation.
- D) **"Annual Fee"** has the meaning ascribed to it in the Cooperative Endeavor Agreement attached hereto as Exhibit D, and is comprised of the Primary Portion and Additional portion, if any, payable by RTA to the NOTMC during each Contract Year thereunder.
- E) **"Bonds"** means and includes any and all bonds, notes, certificates or instruments or similar written evidence of a debt on which the issuing company or governmental body promises to pay the bondholders a specified amount of interest for a specified length of time, and to repay the loan on the expiration date, including any written obligation to refund any of them. For the purpose of Section 8.6 and similar provisions of this Agreement concerning Bonds issued by ENMNOEHA. "Bonds" shall mean such instruments issued by the ENMNOEHA in order to fund and/or finance actual construction costs (labor and materials and/or "brick and mortar" costs) of the Phase IV Expansion Project having an expiration date beyond the then-current budget year of ENMNOEHA and secured in whole or in part by a pledge of the Expansion Payments.
- F) **"City"** means the City of New Orleans.
- G) **"Contract Year"** has the meaning ascribed to it in the Cooperative Endeavor Agreement attached hereto as Exhibit D.
- H) **"Convention Center"** has the meaning ascribed to it in paragraph B of the Recitals.

- I) **"Cooperative Endeavor Agreement"** has the meaning ascribed to it in paragraph J of the Recitals. A copy of the Cooperative Endeavor Agreement is attached hereto as Exhibit D.
- J) **"Depository"** shall mean one or more federally chartered and federally insured financial institutions having a principal place of business and domicile in Orleans Parish, eligible under law to receive deposits of funds belonging to the City of New Orleans, and selected for purposes of this Agreement pursuant to Article IV hereof to receive deposits of funds comprising or intended to comprise funds of the ENMNOEHA-Transit Fund.
- K) **"ENMNOEHA"** means the Ernest N. Morial New Orleans Exhibition Hall Authority, a political subdivision of the State of Louisiana and a party to this Agreement.
- L) **"ENMNOEHA-Transit Fund"** has the meaning ascribed to it in Section 4.2 of the Cooperative Endeavor Agreement.
- M) **"Expansion Payment"** has the meaning ascribed to it in Section 4.2 of the Cooperative Endeavor Agreement and is equal in amount to fifty (50%) percent of the Annual Fee payable by the RTA to NOTMC thereunder.
- N) **"Final Judgment"** has the meaning ascribed to it in the Cooperative Endeavor Agreement at paragraph P of the Recitals thereof.
- O) **"Interim Fund"** has the meaning ascribed to it in Section 4.2 of the Cooperative Endeavor Agreement.
- P) **"Mandamus/Declaratory Suit"** has the meaning ascribed to it in the Cooperative Endeavor Agreement at paragraph N of the Recitals thereof.
- Q) **"Mayor"** means the Mayor of the City of New Orleans.
- R) **"NOTMC"** means the New Orleans Tourism Marketing Corporation, a non-profit, economic development corporation organized under the Laws of Louisiana and a party to this Agreement.

- S) **"Phase IV"** has the meaning ascribed to it in paragraph F of the Recitals.
- T) **"Phase IV Escrow Fund Agreement"** means this Agreement By and Among the Regional Transit Authority, the Ernest N. Morial New Orleans Exhibition Hall Authority, and the New Orleans Tourism Marketing Corporation, as previously contemplated in Section 4.2 of the Cooperative Endeavor Agreement.
- U) **"Primary Portion"** has the meaning ascribed to it in the Cooperative Endeavor Agreement attached hereto as Exhibit D.
- V) **"RTA"** means the Regional Transit Authority, a political subdivision existing under the Laws of Louisiana and a party to this Agreement.
- W) **"RTA Tax (Hotels)"** has the meaning ascribed to it in the Cooperative Endeavor Agreement at paragraph Q of the Recitals thereof.
- X) **"Skywalk" or "Skywalk Pedestrian Walkway"** has the meaning ascribed to it in paragraph B of the Recitals.

1.2 Capitalized words used as defined terms herein and which are not otherwise defined herein, shall have the meaning and definition ascribed to them in the attached Cooperative Endeavor Agreement; and all provisions hereof shall be construed in a manner that is consistent with and fulfill the intent of said Cooperative Endeavor Agreement.

II.

REPRESENTATION AS TO CAPACITY AND AUTHORITY

2.1 Capacity. Each party represents and warrants that it has full capacity and power and has obtained all authorizations and consents necessary for it to enter into

this Phase IV Escrow Fund Agreement.

III.

COOPERATIVE ENDEAVOR

3.1 Cooperative Economic Endeavor. This Agreement shall constitute a cooperative endeavor agreement entered into pursuant to the authorization of La. Const. (1974), Article 6, Section 20 and Article VII, Section 14(C), R.S. 33:1321 *et. seq.*, and other applicable law, and the provisions hereof shall mutually bind and obligate ENMNOEHA, RTA and NOTMC to fulfill all of the covenants, commitments, and obligations agreed upon and set forth herein.

3.2 Mutual Cooperation. In the Cooperative Endeavor Agreement dated June 1, 2000 (Exhibit D), NOTMC has agreed to dedicate a sum equal to fifty (50%) percent of the Annual Fee actually received from the RTA thereunder to the ENMNOEHA-Transit Fund, pursuant to Section 4.1 thereof. NOTMC, ENMNOEHA and the RTA agree to cooperate with each other during the term hereof in order to promote and implement the convention-tourism-hospitality-industry and transit and transit-related public purposes, goals, objectives, terms and conditions hereof, as well as those provided in the Cooperative Endeavor Agreement, and to administer and utilize the ENMNOEHA-Transit Fund in accordance with the terms and conditions contained herein.

3.3 Cooperation with Others. In addition to cooperating with each other, ENMNOEHA, NOTMC and the RTA agree to cooperate with the City, and other interested or concerned entities, both public and private, in order to implement the hospitality, convention and tourism industry and transit and transit-related public

purposes, goals, and purposes hereof and in the Cooperative Endeavor Agreement. Notwithstanding said duty of reasonable cooperation, the parties declare there are no parties to this Agreement other than NOTMC, ENMNOEHA and the RTA and that no party hereto is the guarantor of the obligations of any other party hereto.

3.4 Further Agreements. NOTMC, ENMNOEHA and the RTA acknowledge that additional agreements which are consistent with the purposes, terms and conditions hereof may be required during the term hereof, including but not limited to the agreements which relate to the utilization of the ENMNOEHA-Transit Fund as provided in Section 4.2 of the Cooperative Endeavor Agreement, and the parties agree to endeavor cooperatively to finalize any such additional documents as may be reasonably required to effectuate the purposes, terms and conditions hereof.

IV.

OBLIGATIONS OF ENMNOEHA

4.1 In consideration of the payments to be made by NOTMC and/or the escrowing of funds for the benefit of ENMNOEHA hereunder, and in consideration of the obligations of all the parties hereunder, ENMNOEHA agrees to perform the following services and do the following things:

- A. Plan and implement the Phase IV Expansion Project in ways deemed likely in its sound discretion, to increase convention attendance in the City of New Orleans, tourism in the City of New Orleans, hotel occupancy, and use of RTA and other transportation services, and allow the Convention Center to host or accommodate large trade shows and conventions that can not be comfortably accommodated in the existing facilities, or as

otherwise necessary to accommodate future demand for Convention Center facilities, particularly including in said planning and implementation, in its sound discretion and to the extent feasible, reasonable attention to the need for preserving the Skywalk in an operable condition and the public transportation needs of convention and trade show attendees and the public including, but not limited to, use of such transportation facilities and services of the RTA and/or other RTA facilities and services of the same type and magnitude and appropriateness as the Riverfront Streetcar, bus lines on Convention Center Boulevard and connecting streetcar and bus lines and, if reasonably feasible, the Canal Street Streetcar line.

- B. Take all reasonable and appropriate measures to obtain necessary funding for the proposed Phase IV Expansion Project, including cooperation with other agencies, public and private, in an on-going effort to secure state, federal, and/or other funding for development and construction of capital improvements, and to work with NOTMC, and the City, to ensure that the City receives appropriate recognition or credit with the State of Louisiana or other interested parties for the financial contribution to the Phase IV Expansion Project pursuant to Section 4.4 C hereof.
- C. Expend funds from the ENMNOEHA-Transit Fund only in accordance with the terms and conditions contained herein, for purposes that are consistent with and conducive to the promotion and enhancement of the

tourism, convention and hospitality industry-related and transit and transit-related purposes of this Agreement and the Cooperative Endeavor Agreement.

- D. Through an Administrator, prudently administer the ENMNOEHA-Transit Fund in order to ensure that all funds paid into the Fund and that all of the interest thereon and increase, and earnings thereof, shall be maintained, used, and/or expended solely for the benefit of the Phase IV Convention Center Expansion Project pursuant to the terms and conditions of this Phase IV Escrow Fund Agreement and the Cooperative Endeavor Agreement.
- E. Prior to the transfer, deposit and/or payment of any portion of the Expansion Payment(s) and/or any funds in the Interim Fund to the ENMNOEHA-Transit Fund, with the advice and consent of the Mayor of New Orleans or the Chairman of the Board of Commissioners of the RTA, appoint and give written notice to NOTMC, the RTA, and the Mayor of New Orleans of the appointment of an Administrator of the ENMNOEHA-Transit Fund, who shall administer the ENMNOEHA-Transit Fund on behalf of the ENMNOEHA.
- F. Separately maintain the ENMNOEHA-Transit Fund and all interest thereon and increase, and earnings thereof, without commingling said funds with the other funds, savings or accounts of ENMNOEHA, except as expressly authorized herein, and then only for the purposes permitted herein, in accordance with the terms and conditions contained herein.

- G. Promptly transfer and return all funds in the ENMNOEHA-Transit Fund, including all interest thereon and increase and earnings thereof, to NOTMC, as provided in Section 4.2 of the Cooperative Endeavor Agreement, in the event that ENMNOEHA and NOTMC determine or a court of competent jurisdiction declares in a final and definitive judgment that the proposed Phase IV Expansion Project is not feasible and/or will not be pursued, constructed and/or developed within the reasonably foreseeable future, whether due to lack of financing or any other cause, or if ENMNOEHA or a court of competent jurisdiction declares in a final and definitive judgment determines that it cannot utilize the ENMNOEHA-Transit Fund pursuant to and in accordance with the terms and conditions contained herein and/or in the Cooperative Endeavor Agreement. The determination of ENMNOEHA and NOTMC shall be evidenced by a resolution adopted by the Board of each delivered to the other parties and the Mayor of the City of New Orleans.
- H. Keep NOTMC and RTA reasonably informed upon request regarding ENMNOEHA's plans or the status of the Phase IV Expansion Project, and provide consultation with the NOTMC and RTA, or either, as needed or requested, regarding Convention Center events or information regarding public transportation services to and from the City's tourist attractions, tourist and transportation related facilities, and/or related areas of interest whenever reasonably feasible and appropriate under the circumstances.

- I. Promote appropriate use of RTA services by tourists, convention-goers and/or convention organizers whenever reasonably feasible and appropriate under the circumstances.
- J. Upon the request of the RTA, make available reasonable locations and space for the RTA and/or its agents to provide and place or construct transit information displays and/or sales kiosks whether staffed by the RTA and/or its agents or automated, in order to educate Convention Center users and visitors concerning RTA transit services. The number, size, design, construction or placement and location of displays and kiosks shall be reasonably determined by ENMNOEHA in close consultation with the RTA. ENMNOEHA shall not be obliged to design, purchase, construct, maintain, equip and/or staff said displays or kiosks except to the extent that the Board of Commissioners of ENMNOEHA from time to time may elect to allocate and/or appropriate funds for such purposes. The cost of designing, purchasing, constructing, installing, maintaining and staffing said displays and/or kiosks may be borne by the NOTMC, if provision therefor is included in its plan and approved by the City Council of New Orleans, or by another person or entity other than the ENMNOEHA.
- K. Implement the Phase IV Expansion project, if it is implemented, in full compliance with all applicable provisions of the Constitution and laws of the State of Louisiana, the applicable provisions of the Charter, Codes

and ordinances of general application of the City of New Orleans, and all provisions and regulations governing construction of improvements in the areas where new facilities and/or improvements are to be located including, but not limited to, R.S. 33:109.

- L. Continue to provide unimpeded transit servitudes for light rail and other transit facilities, to the extent already granted or required, and refrain in the future from unreasonably refusing to grant servitudes or rights of way or of use, for good cause or adequate consideration, when appropriate to meet the transportation needs of residents and visitors and not inconsistent with the reasonable plans and needs of ENMNOEHA.

4.2 The ENMNOEHA-Transit Fund. Pursuant to the Cooperative Endeavor Agreement and in recognition and in consideration of the many interrelationships between the transportation and hospitality industries, NOTMC has agreed to allocate and dedicate a sum in dollars equal to fifty (50%) percent of the Annual Fee paid each year by the RTA to NOTMC thereunder (the "Expansion Payment") to a special trust fund or special interest-bearing account, known as the "Morial Convention Center Expansion Transit Fund" (the "ENMNOEHA-Transit Fund"). This Phase IV Escrow Fund Agreement is the agreement contemplated by the parties to the Cooperative Endeavor Agreement with respect to the establishment, maintenance, utilization, and operation of the ENMNOEHA-Transit Fund, in order to ensure the maintenance of the designated funds and interest thereon and increase thereof separate from all other funds of ENMNOEHA or NOTMC. All funds paid into the ENMNOEHA-Transit Fund and all of the interest thereon and increase, and earnings thereof, shall be maintained,

used, and/or expended solely for the benefit of the Phase IV Convention Center expansion project administered by ENMNOEHA, pursuant to the terms and conditions hereof and of the Cooperative Endeavor Agreement.

4.3 Interim Fund. NOTMC has received funds paid as payments of the Annual Fee(s) from the RTA prior to the execution of this Phase IV Escrow Fund Agreement, and NOTMC has been required to promptly deposit the Expansion Payment into a special interest bearing account in a federally-insured depository bank in the City of New Orleans bearing the name "Special Convention Center Expansion Transit Fund" (the "**Interim Fund**"), pursuant to the terms and conditions of the Cooperative Endeavor Agreement. Said Interim Fund has been established prior to the execution of this Agreement, and NOTMC has been permitted, pursuant to the terms of the Cooperative Endeavor Agreement, to transfer all or any portion of the Interim Fund to a different or other federally-insured depository bank(s) in the City of New Orleans, or another depository approved by the RTA, ENMNOEHA and the Mayor thereafter. Further, NOTMC is obligated to furnish the RTA, ENMNOEHA and the Mayor with information regarding the Interim Fund, including the account numbers and account balances, as and when requested. The term "Interim Fund", as used herein, shall include the original account, as well as any other accounts into which the Expansion Payment(s) is or are or have been transferred or deposited as herein provided, including all earnings and interest thereon. No funds may be expended, transferred or withdrawn from the Interim Fund for any purpose except as authorized and provided herein. NOTMC shall not be required to establish and/or maintain a special account for an Interim Fund after the effective date hereof once any and all funds in the Interim

Fund are paid or transferred or deposited in the ENMNOEHA-Transit Fund. Rather, the Expansion Payment shall thereafter be directly deposited and transferred into the ENMNOEHA-Transit Fund, established pursuant to the provisions of Section 4.2 hereof.

4.4 Terms and Conditions. In addition to the other terms and conditions hereof, the RTA, NOTMC, and ENMNOEHA agree that the following provisions shall apply to the payment, use and administration of the Expansion Payment and the use and administration of the ENMNOEHA-Transit Fund:

A. Use of the Fund. The ENMNOEHA-Transit Fund may only be used for the financing or funding of actual physical construction costs (labor and materials) of new capital facilities and/or capital improvements of the Convention Center in connection with the Phase IV Expansion Project, particularly including, but not limited to, facilities and/or improvements that address and recognize the need for access to the RTA's Riverfront Streetcar and shuttle-bus services (to the fullest extent feasible and appropriate in the reasonable judgment of ENMNOEHA) and the transportation needs of Convention Center attendees and the public, consistent with the needs of ENMNOEHA and the legal requirements for the use and/or expenditure of the revenues derived from the RTA Tax (Hotels). In addition to the foregoing, moneys in the ENMNOEHA-Transit Fund may be used to pay debt service on the Bonds issued pursuant to Section 4.4D hereof.

B. Administration of the ENMNOEHA-Transit Fund.

(i) Selection of Depository. The fiscal agent depository banks (the "**Depository**") for the deposit of the Expansion Payment

funds by NOTMC shall be selected and designated in the manner provided by resolution of the Board of Commissioners of ENMNOEHA, consistently with and pursuant to the requirements hereof. ENMNOEHA shall furnish NOTMC and the RTA with written notice of its selection and designation of Depository and shall thereafter assist NOTMC with the establishment of the Depository account(s), into which NOTMC shall deposit the Expansion Payment as herein provided. NOTMC shall authorize the RTA and ENMNOEHA to obtain information regarding the status of any such Depository account(s) at any time, including the balance(s), security, or expenditures therefrom. ENMNOEHA shall also notify the RTA of the identity of each Depository and the account numbers of each Depository account opened. ENMNOEHA's selection and designation of the fiscal Depository agents for deposit by NOTMC of the funds comprising the ENMNOEHA-Transit Fund shall comply with all legal requirements that currently govern or relate to ENMNOEHA's selection and utilization of fiscal agents for the deposit of ENMNOEHA's public monies or funds, subject to the terms, conditions, and limitations on the use or expenditure of the ENMNOEHA-Transit Fund herein. ENMNOEHA's selection of fiscal Depository agents for the

ENMNOEHA-Transit Fund hereunder shall not in any way affect the separate and distinct character of the ENMNOEHA-Transit Fund, which shall at all times remain specially designated and separated from the other funds of ENMNOEHA. ENMNOEHA agrees that it shall not co-mingle any portion of the ENMNOEHA-Transit Fund with any other funds or accounts of ENMNOEHA and that the fund shall be administered and expended pursuant to the terms and conditions contained herein and in the Cooperative Endeavor Agreement, and/or returned to NOTMC in the event that the Phase IV Expansion Project is deemed abandoned pursuant to the provisions of Section 4.6 hereof.

- (ii) Minimum Depository Requirements. Each Depository shall also comply with the following minimum requirements:
- a. Each Depository designated and selected as the fiscal agent for the ENMNOEHA-Transit Fund shall lawfully maintain its principal offices and facilities and be domiciled in the Parish of Orleans, State of Louisiana.
 - b. The Depository shall be required to furnish the following to the Administrator of the ENMNOEHA-Transit Fund, for the benefit of ENMNOEHA and NOTMC as security for deposits comprising the ENMNOEHA-Transit Fund held in its custody:
 - (1) Bonds of the United States of America or any colonial possession

thereof; or bonds of the State of Louisiana or bonds of the City of New Orleans, or bonds of the Orleans Levee Board or Orleans Parish School Board, or bonds of the Board of Commissioners of the Port of New Orleans, or

(2) Promissory notes, warrants, or certificates of indebtedness, of any depositing authority referred to in R.S. 33:2928, which notes, warrants, or certificates of indebtedness must be either un-matured or payable on demand.

(iii) Use and Application of Principal, Interest or Other Earnings.

All principal and interest or other earnings on the funds comprising the ENMNOEHA-Transit Fund shall become a part of the Fund and shall not be expended for any purpose, except for purposes for which ENMNOEHA-Transit Fund may be expended as herein provided. All securities pledged as security for the funds comprising the ENMNOEHA-Transit Fund either in the physical possession of the Administrator or deposited under joint custodianship in the safety deposit vault of the Depository, or held in trust by any bank or trust company for account of ENMNOEHA, NOTMC, or the ENMNOEHA-Transit Fund, shall at all times be deemed to be under the control and in the possession of ENMNOEHA, NOTMC, and the ENMNOEHA-Transit Fund, through its designated Administrator, and shall be delivered

into the custody of the Administrator, or in the absence thereof, to the chief financial officer of ENMNOEHA with the written approval of NOTMC for the ENMNOEHA-Transit Fund, or if requested in writing by both NOTMC and ENMNOEHA, to the special account of ENMNOEHA, if and when demanded pursuant to the provisions of Section 4.1 F hereof. The Administrator may not make such a demand for transfer of the funds comprising the ENMNOEHA-Transit Fund without first having obtained the approval and consent of both NOTMC and ENMNOEHA. The trustee for the Bonds contemplated by Section 4.4D hereof shall have a first lien on the moneys in the ENMNOEHA-Transit Fund for the benefit of the holders of the Bonds once any Bonds are issued, and moneys shall be disbursed to the Trustee from the ENMNOEHA-Transit Fund to pay monthly principal and interest installments on Bonds issued by ENMNOEHA.

(iv) Accounting and Accountability.

All funds in the ENMNOEHA-Transit Fund shall be administered and accounted for in accordance with the laws and accounting standards applicable to funds of a Louisiana governmental entity and/or political subdivisions and all records pertaining thereto shall be public records.

(v) Selection and Qualifications of Fund Administrator.

The Administrator of the ENMNOEHA-Transit Fund shall be selected in the manner provided in Section 4.1 hereof and shall be an actual domiciliary of the Parish of Orleans with expertise and experience in public finance or a related area.

Successors to the Administrator shall be selected in the same manner and shall have the same qualifications as the initial Administrator.

(vi) Procedures and Required Documentation for Expenditures.

1) No expenditure shall be made from the ENMNOEHA-Transit Fund or from the proceeds of bonds or other debt instruments secured by the Fund and/or Expansion Payments and/or the payment or servicing of which said funds are pledged or dedicated unless the expenditure is both permitted by this Agreement and authorized in a capital budget duly adopted by the Board of Commissioners of the ENMNOEHA in accordance with applicable state law. Prior to the adoption of such a budget, ENMNOEHA shall deliver to NOTMC, the RTA, and the Mayor of New Orleans (at least five days in advance thereof except when a written waiver of this notice requirement is obtained) a written notice and agenda of the meeting(s) at which the proposed budget will or may be considered and/or adopted. The notice shall include a detailed explanation of all expenditures to be made

from the ENMNOEHA-Transit Fund that are proposed to be included in the proposed budget and the manner in which the proposed expenditures will be in compliance with the provisions of this Agreement. The detailed written explanation required by this paragraph shall constitute an obligatory course of action, binding upon ENMNOEHA, upon written acceptance of NOTMC and the RTA.

Notwithstanding anything to the contrary, the NOTMC shall have no authority to affect the capital budget duly accepted by the Board of Commissioners of the ENMNOEHA but shall seek legal relief afforded them by the Cooperative Endeavor Agreement and this Escrow Agreement. The requirements of this paragraph 4.4(B)(vi)(1) shall be deemed satisfied by the presentation and adoption of a detailed construction budget for the Phase IV Expansion at a meeting of the Board of Commissioners of ENMNOEHA accompanied by a statement explaining how the expansion as planned and budgeted will be in compliance with this Agreement.

Notwithstanding the foregoing, no consent of either the RTA or NOTMC is required for expenditures to pay debt service on Bonds which are secured by moneys in the ENMNOEHA-Transit Fund.

2) All plans for the Phase IV Expansion project shall be

submitted for consideration by the City Planning Commission of New Orleans, as provided in and subject to all applicable provisions of R.S. 33:109, together with a letter addressed to the City Planning Commission explaining how the plans are consistent with the need to provide reasonable access to the Riverfront Streetcar and RTA shuttle bus service and are otherwise consistent with the transportation needs of convention-goers and the public. A copy of said letter to the City Planning Commission shall be served promptly upon the RTA, NOTMC and the Mayor of the City of New Orleans.

3) Within thirty days of the end of each fiscal year, the ENMNOEHA shall by certified mail, return receipt requested, serve NOTMC and the RTA with a written statement providing detailed documentation of all expenditures made from the ENMNOEHA-Transit Fund.

(vii) Other Conditions.

All moneys held by the Administrator and/or the ENMNOEHA shall be held and invested in full compliance with applicable state law.

C. Recognition. Due and proper recognition shall be provided by the parties in dealing with various public and private agencies, including the State of Louisiana, which attributes and gives the City of New Orleans credit for

the payment of the Expansion Payment into the fund, toward any expected contribution of the City and Orleans Parish to the proposed Phase IV expansion project. It shall also be stated in any other agreements between the NOTMC and ENMNOEHA which relate to the Expansion Payment or Phase IV, that all monies paid out of the fund shall be credited to the Orleans Parish share of any funding and/or financing arrangements for the Phase IV Expansion project.

- D. Bonding. The RTA, NOTMC, and ENMNOEHA mutually acknowledge the potential difficulty of financing the Phase IV Expansion Project, and they hereby agree to consider fully and take ENMNOEHA's bonding needs and requirements into account in the administration, handling, maintenance, and utilization of the ENMNOEHA-Transit Fund. The RTA, NOTMC, and ENMNOEHA shall execute such further documents and shall do such further things as may reasonably be required in order to assist or facilitate ENMNOEHA's Phase IV financing and/or bonding needs to the extent allowed by law and not otherwise inconsistent with the terms and conditions of this Agreement. In the event that any provision hereof, or in the Cooperative Endeavor Agreement, shall cause a barrier or obstacle to ENMNOEHA's financing and bonding needs for the accomplishment of the Phase IV Expansion Project, the parties will attempt in good faith to seek a solution to said barrier or obstacle through all reasonable and available means, which may include the written amendment of the

Cooperative Endeavor Agreement or this Phase IV Escrow Fund Agreement as permitted or allowed by law.

To that end, the parties hereto agree and acknowledge that the moneys owed by NOTMC pursuant to the Cooperative Endeavor Agreement and the right of ENMNOEHA to receive such moneys may be pledged and assigned to the trustee for the benefit of the owners of Bonds issued by ENMNOEHA to finance or refinance any cost of the Phase IV Project for which funds in the ENMNOEHA Transit Fund may be expended. The parties further agree that when any bonds have been issued, no action can be taken to discontinue or decrease the revenues in anticipation of the collection of which such Bonds have been issued or in any way make any change in the allocation and dedication of the revenues which would diminish the amount of revenues to be received therefrom until all of such Bonds have been retired or irrevocable provision made for their payment in principal and interest, and any violation of this covenant shall be legally enforceable by the trustee acting on behalf of the Bondholders. Notwithstanding anything in this Agreement to the contrary, the RTA and NOTMC shall never be obliged to pay anything more or anything other than the

Annual Fee and the Expansion Payment, respectively, except that the NOTMC may agree with the ENMNOEHA to increase the Expansion Payment. The parties agree that none of them shall voluntarily take any action to reduce the rate or the scope of applicability of the RTA Sales Tax (Hotels) during the term of this Agreement.

4.5 In addition, ENMNOEHA agrees that it shall:

- A. Conduct all operations, planning and construction in complete compliance with the provisions of this Agreement and with all laws, ordinances, and regulations applicable to it.
- B. Designate one of its officers or executives as its liaison to the RTA and NOTMC for the purpose of promoting clarity, efficiency and convenience in communications.
- C. Regularly consult with and consider the advice of the designated liaison persons of the RTA and NOTMC.
- D. Upon the RTA or NOTMC's request, render quarterly written reports or other appropriate information to the RTA and/or NOTMC setting forth details of the material operations and activities in which ENMNOEHA engages in pursuant to this Agreement.
- E. Cooperate with and actively assist to a reasonable extent the RTA and other agencies, public and private, in an on-going effort to secure federal, state, and other funding for capital improvements and the development, preservation, and maintenance of existing and proposed streetcar and

light rail projects including, but not limited to, light rail service to New Orleans East and Jazzland, the Airports, Union Passenger Terminal, the New Orleans Museum of Art and City Park, the Cemeteries, and/or the Florida Parishes, whenever reasonably feasible and/or appropriate.

4.6 Return of Funds Upon Abandonment of Phase IV Expansion Project.

Notwithstanding the foregoing, in the event that NOTMC determines that the proposed Phase IV Expansion Project is not reasonably feasible, or that ENMNOEHA cannot or will not utilize the ENMNOEHA-Transit Fund or earnings thereupon pursuant to the terms and conditions contained herein, then in such an event, the Executive Vice President of NOTMC, or its chief executive officer, shall provide ENMNOEHA, the RTA and the Mayor with at least thirty (30) days prior written notice that ENMNOEHA will not be able to utilize the ENMNOEHA-Transit Fund for purposes authorized herein, and shall so certify that the ENMNOEHA-Transit Fund may be released unto NOTMC pursuant to the intent and purposes of this Agreement. Said notice shall include a copy of the resolution described in Section 4.1G. After said notice and valid certification and the passing of thirty (30) days, NOTMC shall be entitled to withdraw the funds from the ENMNOEHA-Transit Fund and thereafter retain the funds thus withdrawn and all the Expansion Payment funds for itself, and to expend them to promote tourism for the City of New Orleans in accordance with the tourism, convention, hospitality and transit and transit-related purposes, and pursuant to the obligations of NOTMC under the Cooperative

Endeavor Agreement, pursuant to a budget approved by the City, or otherwise as required by contract or law. Any dispute as to the granting or validity of such written certification or of NOTMC's right to withdraw funds from the ENMNOEHA-Transit Fund and to retain the Expansion Payment funds shall be submitted first for mediation by the Mayor of the City of New Orleans, if he or she agrees to accept the role of mediator, prior to recourse in the Courts. Any civil action concerning NOTMC's right to withdraw funds from the ENMNOEHA-Transit Fund shall be instituted in the Civil District Court for the Parish of Orleans.

V.

OBLIGATIONS OF NOTMC

5.1 In consideration of the services rendered by ENMNOEHA and the undertakings of ENMNOEHA hereunder, NOTMC shall do the following things and make the payments specified below to the ENMNOEHA-Transit Fund:

- A. Designate a liaison and key contact person to represent the NOTMC in its dealings with the RTA, ENMNOEHA, and other tourism and convention industry agencies, public and private;
- B. Pay into the ENMNOEHA-Transit Fund, the Expansion Payment in an amount of money equal to Fifty (50%) Percent of the Annual Fee actually received by NOTMC from the RTA in each Contract Year pursuant to the Cooperative Endeavor Agreement, within fifteen (15) days of NOTMC's receipt of said Annual Fee or portion thereof, during the entire term hereof;

- C. Fully comply with all terms and conditions of the Cooperative Endeavor Agreement during the entire term thereof.
- 5.2 The NOTMC is not responsible to the RTA or any other party, person or entity for the monitoring of the Convention Center's budget or expenditure of funds that have been paid over to the ENMNOEHA-Transit Fund.
- 5.3 Unless and then only to the extent otherwise required by the Final Judgment, NOTMC may, with the approval of any party entitled to receive any report pursuant to this Agreement and/or the Cooperative Endeavor Agreement, make the report on an annual basis in lieu of a quarterly basis.

VI.

OBLIGATIONS OF THE RTA

- 6.1 In consideration of the obligations and undertakings made to it by ENMNOEHA hereunder, the RTA shall:
 - a. Comply reasonably with the provisions of the Cooperative Endeavor Agreement during the term thereof;
 - b. Cooperate reasonably with NOTMC and ENMNOEHA to facilitate and promote commencement and completion of the Phase IV Expansion project;
 - c. Fulfill obligations imposed on it elsewhere in this Agreement in a reasonable manner;
 - d. Not unreasonably withhold any approval or consent which it is requested or authorized to give under the

provisions of this Agreement; and

e. Provide reasonable accuracy and clarity in transit information whenever such information is provided by signage or or other means located in the Morial Convention Center pursuant to Article IV hereof.

VII.

OWNERSHIP, RESPONSIBILITIES AND LIABILITIES

7.1 The parties each agree that they are not partners or joint venturers with each other nor with any person or entity named herein, and that no party shall acquire any ownership interest in any other party or any other party's improvements, fixtures, equipment, furniture, or other property acquired by any other person or entity as a result of any of the provisions of the Agreement. None of the parties shall be liable under the Agreement for any debt or obligation of any kind whatsoever of the other party and/or parties or of any third party claiming under this Agreement.

7.2 The Annual Fee and any other monies paid by the RTA to the NOTMC pursuant to the Cooperative Endeavor Agreement shall immediately become the funds of the NOTMC upon receipt, and such funds shall not be, and shall not be considered the funds of either ENMNOEHA or the RTA. The Expansion Payment and any other monies deposited or paid by NOTMC to the ENMNOEHA-Transit Fund pursuant to this Agreement shall immediately become a part of the ENMNOEHA-Transit Fund and they may be disbursed and expended solely pursuant to the terms and conditions contained herein. Once deposited such funds comprising the ENMNOEHA-Transit Fund shall not be, and shall not be considered the funds of either NOTMC or the RTA. However, the

NOTMC will maintain its interest in the funds pursuant to this agreement in the event of the termination of this Escrow Fund Agreement or the abandonment of the Phase IV project pursuant to Section 4.6 or a determination that the Convention Center is unable to apply the funds pursuant to this Agreement, at which point the NOTMC will avail itself of the procedures contained this Agreement for effecting a return of those funds.

7.3 The parties agree and stipulate that payments to be made to or by any one party or to any person or fund herein named shall be calculated on the bases set forth in this Agreement but may be made using funds derived from any lawful source of revenue, and that, unless otherwise specifically provided to the contrary herein, nothing in this Agreement shall be construed as requiring funds from any one particular source to be used to make payments required to be made by or to any party to the Agreement or any third-person or fund named herein. However, it is expressly understood that NOTMC's responsibility to pay the Expansion Payment into the ENMNOEHA-Transit Fund is calculated based upon and contingent upon NOTMC's actual receipt of the corresponding Annual Fee payment or portion thereof to be paid by the RTA to NOTMC pursuant to the Cooperative Endeavor Agreement.

7.4 Nothing in this Agreement shall be construed as giving the RTA or NOTMC of their agents a role in or control or supervision of the manner in which ENMNOEHA fulfills its obligation under this Agreement. The ENMNOEHA shall plan and conduct all Phase IV Expansion Project activities required by this Agreement in ways determined in its reasonable discretion but in full compliance with all of the provisions of this Agreement.

7.5 That both the RTA and NOTMC have complied with all of the obligations

under the Cooperative Endeavor Agreement which is in full force and effect and without known default by any party under its terms as of the date of the execution of this Agreement.

VIII.

TERM AND TERMINATION

8.1 Term. This Agreement shall commence on the date it has been signed by all parties and approved in writing by the Mayor of the City of New Orleans, and shall continue during the term of the Cooperative Endeavor Agreement and be co-terminous therewith unless terminated "for cause" for violation of a material obligation as provided in Section 8.2 of this Agreement. The obligations to return any funds remaining in the ENMNOEHA-Transit Fund to NOTMC upon termination hereof or otherwise pursuant to the provisions of Article IV hereof shall survive the termination hereof.

8.2 Termination "for cause". As used herein, breach of a material obligation is understood to mean any failure of a party to carry out all or part of its substantive obligations under this Agreement such that one or both of the other two parties is substantially deprived of what it is reasonably entitled to expect under this Agreement, unless such performance is prevented by strikes, war, Acts of God, or similar circumstances not reasonably within the control of said party. Any party may terminate this Agreement for valid "cause" by written notice to all other parties not less than sixty (60) days in advance. If this Agreement has remained in force for more than two (2) years, the notice period to terminate for valid "cause" shall be a minimum of ninety (90) days. The end of any notice period must coincide with the end of a calendar month.

8.3 Notice of Default/Right to Cure. In case of a substantial breach of another

party's material obligations under this Agreement, the offended party shall furnish both other parties with written notice of default, specifying the alleged default and reasons therefor, and shall allow the allegedly defaulting party at least thirty (30) days time following actual receipt of notice to cure said default, or to commence the cure of said default if the default can not be cured within thirty (30) days time despite reasonable, good faith efforts, diligently pursued. In the event that said act of default has not been cured within thirty (30) days time to cure said default, or if the offending party has not commenced the cure of said default if the default can not be cured within thirty (30) days time and diligently pursued the cure thereafter, then the offended party who previously furnished the written notice of default hereunder may terminate this Agreement by written notice to both of the other parties hereto.

8.4 Remedies for Breach. If either party fails to fulfill in a timely and proper manner its material obligations under this Agreement (including the incorporated Cooperative Endeavor Agreement), or violates any of the material covenants, agreements, or stipulations of this Agreement, the aggrieved and/or the non-violating party shall thereupon have the option to: A) seek to enforce specific performance of the provisions of the Agreement, and/or B) may seek an award of damages as a remedy for any material breach of the Agreement by the other party, subject to the limitations set forth in this Article.

8.5

A. Limitation of Liability. Notwithstanding anything to the contrary in this Agreement or in any collateral, supplemental or preceding agreement (including but not limited to the Cooperative Endeavor Agreement), the Parties agree that they shall look

solely to the funds then held in the ENMNOEHA – Transit Fund and any unspent and unencumbered funds of NOTMC remaining from the RTA's payment of the Annual Fee for the collection of any judgment (or other judicial process) requiring the payment of money or damages by NOTMC in the event of any default or breach by NOTMC with respect to any of the terms, covenants and conditions of this Agreement to be observed and/or performed by NOTMC, the RTA, or ENMNOEHA. Further, in the event that any Party hereto procures or causes to be procured and maintained any type of insurance at any time during the term of this Agreement regarding the payment of funds or provisions of this Agreement, including bonding of any revenues hereunder, such Party shall exercise its reasonable best efforts to cause any such insurer to waive its rights of subrogation against the other Parties hereto, and further, under no circumstances shall any such title insurer have any greater rights than the Party it insures with respect to the rights, causes of action, or any claims against any of the other Parties hereto, and such title insurer shall only look to the funds then held in the ENMNOEHA-Transit Fund and any unspent and unencumbered funds of NOTMC remaining from the RTA's payment of the Annual Fee for the collection of any judgment against any of the other Parties hereto. Any such insurer which insures any interest or payments to be made under this Agreement shall be deemed to have agreed to such limitations of liability as set forth herein. Other than the funds then held in the ENMNOEHA-Transit Fund and any unspent and unencumbered funds of NOTMC remaining from the RTA's payment of the Annual Fee (and only if Louisiana law allows seizure of public property), no other assets of any party hereto shall be subject to levy, execution or other procedure for the

satisfaction of any Party or insurer's judgment, and under no circumstances shall NOTMC and/or the RTA or any of their respective officers, directors, agents, managers, consultants, attorneys, or employees have any personal liability hereunder or for the obligations of NOTMC and/or the RTA hereunder. Nothing contained herein, however, shall be construed to limit or restrict any rights or actions which any Party to this Agreement may have against any other third party.

B. Notwithstanding anything to the contrary contained herein, this Agreement and the Cooperative Endeavor Agreement may not be terminated while any Bonds issued by ENMNOEHA to finance or refinance costs of the Phase IV Project for which monies in the ENMNOEHA Transit Fund may be expended are outstanding (excluding Bonds which are paid or deemed paid pursuant to the provisions of their authorizing indenture or resolution authorizing their issuance), and the Trustee shall be entitled to seek to enforce specific performance for any violation of this Agreement, including, without limitation, a default which results in a nonpayment of moneys into the ENMNOEHA-Transit Fund.

Notwithstanding anything in this Agreement to the contrary, the RTA and NOTMC shall never be obliged to pay anything more or anything other than the Annual Fee and the Expansion Payment, respectively, except that the NOTMC may agree with the ENMNOEHA to increase the Expansion Payment.

The parties agree that none of them shall voluntarily take any action to reduce the rate or the scope of applicability of the RTA Sales Tax (Hotels) during the term of this Agreement.

8.6 Continuation of Cooperative Endeavor Agreement while Bonds

Outstanding. Unless and until all Bonds (if any) of ENMNOEHA secured by the Expansion Payments and issued to fund or finance in whole or in part construction of the Phase IV Expansion (excluding Bonds which are paid or deemed paid pursuant to the provisions of their authorizing indenture or resolution), have been liquidated, notwithstanding anything to the contrary contained herein, the Cooperative Economic Endeavor Agreement between the RTA and the NOTMC may not be terminated provided that nothing contained in this Agreement shall alter the method of calculating the Annual Payment(s) by the RTA to the NOTMC nor impose on the RTA any obligation to make any payment to NOTMC and/or ENMNOEHA other than said Annual Payment(s).

IX.

RELATIONSHIP BETWEEN THE PARTIES

9.1 No provision of the Agreement is intended to create nor shall it be deemed or construed to create any relationship between the parties other than that of independent contracting parties acting pursuant to a cooperative endeavor agreement under La. Const. (1974), Article 6, Section 20 and Article VII, Section 14(C) and R.S. 33:1321 *et seq.*

9.2 Nothing in this Agreement shall be construed or deemed to revise, modify, annul and/or supersede any provision of the Cooperative Endeavor Agreement nor shall termination of this Agreement cause, necessitate and/or in and of itself result in termination of the Cooperative Endeavor Agreement.

The parties hereby knowingly acknowledge that the term and method of termination of the Agreement for Services and Cooperative Economic Endeavor are governed solely by its provisions.

9.3 NOTMC, ENMNOEHA and the RTA acknowledge that the Cooperative Endeavor Agreement between the RTA and NOTMC is in full force and effect, without known default by any party, that it is fully binding and enforceable pursuant to its terms, and that NOTMC and the RTA have performed all acts and done all things required thereby as of the Effective Date hereof. Once Bonds are issued for the Phase IV Project, all covenants and agreements on the part of the RTA and NOTMC with respect to this Escrow Fund Agreement shall be for the benefit of the registered owners from time to time of the Bonds, the trustee bank acting on behalf of the owners of the Bonds and the issuer of any credit enhancement devices which support the payment of the Bonds. The owners of the Bonds, the trustee on behalf of the owners of the Bonds, and any credit enhancers are third party beneficiaries of this Agreement and of the Cooperative Endeavor Agreement.

X.

AMENDMENTS TO THE AGREEMENT

10.1 This Agreement may be amended at any time only by a written document that makes specific reference to this Agreement and is signed by representatives of all three of the parties by virtue of resolutions adopted by the respective board of each party. Any material amendment hereto that is not of a minor or technical nature must also be approved by the Mayor of New Orleans.

Notwithstanding the foregoing, this Agreement may not be amended in any way without the written consent of the trustee acting on behalf of the owners of the Bonds, which consent shall be given only if the trustee determines *and/or a final and definitive judgment of a court of competent jurisdiction declares* that the amendment does not adversely affect the interests of the owners of the Bonds (which determination may be made in reliance upon an opinion of counsel to the trustee).

XI.

GOVERNING LAW

11.1 This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of Louisiana and the Ordinances of the Parish of Orleans, to the exclusion of the laws of any other forum.

11.2 The parties acknowledge that the confection of this Agreement is made in part as a result of the Cooperative Endeavor Agreement. Any civil action concerning any dispute arising under this Agreement or regarding its interpretation or validity shall be instituted in the Civil District Court for the Parish of Orleans, State of Louisiana. In the event that any party to this Agreement is required to engage an attorney to enforce its rights under this Agreement, said party shall be entitled to recover from the defaulting party or parties its costs and reasonable attorney's fees incurred in order to enforce its rights hereunder.

XII.

ASSIGNABILITY

12.1 No party may assign the rights, duties and/or obligations under the

Agreement, either in whole or in part, without the prior written consent of the other parties, which consent shall not be unreasonably or untimely withheld.

In addition, the written consent of the trustee, if any, acting on behalf of the owners of the Bonds, if any, shall be required for any assignment, which consent shall be given if and only if the trustee determines that the assignment does not adversely affect the interests of the owners of the Bonds (which determination may be made in reliance upon an opinion of counsel to the trustee) and/or a court of competent jurisdiction enunciates said determination in a final and definitive judgment.

XIII.

CAUSES BEYOND CONTROL

13.1 Neither party shall be responsible in damages for delays or failure in performance resulting from acts beyond the control of that party. Such acts shall include, but not be limited to, Acts of God, strikes, riots, Acts of War, epidemics, statutes, judicial interpretations of statutes, and/or governmental regulations superimposed after the fact, fire, communication line failures not reasonably foreseeable, power failures not reasonably foreseeable, earthquakes, or other natural disasters, including any act caused by or related to a Y2K failure and/or malfunction.

XIV.

INVALIDITY OR UNENFORCEABILITY

14.1 The invalidity or unenforceability of any terms or conditions of this Agreement shall in no way affect the validity or enforceability of any other of its terms or provisions.

In the event that any of the terms of this Agreement conflict with a rule of law or statutory provision or are otherwise unenforceable under the laws or regulations of any government

or subdivision thereof, such terms shall be deemed stricken from this Agreement but such invalidity or unenforceability shall not invalidate any other terms of this Agreement. The foregoing shall not apply where invalidity or unenforceability of such provisions does substantial violence to the remainder of this Agreement.

XV.

LIAISON

15.1 Each party shall designate one or more persons who shall act as a point of contact with the other party to facilitate the expeditious and felicitous execution of the Agreement. The parties agree that Ms. Sandra Shilstone shall serve as NOTMC's liaison, the Executive Vice President of ENMNOEHA shall serve as ENMNOEHA liaison, and Ms. Lisa Burns shall serve as the RTA's liaison hereunder until further notice by NOTMC or ENMNOEHA or the RTA.

XVI.

PERSONNEL

16.1 Personnel or contractors engaged or assigned by ENMNOEHA to perform the services required under this Agreement shall be qualified to perform such assigned duties and ENMNOEHA will determine which personnel shall be assigned for any particular undertaking.

16.2 ENMNOEHA assumes and/or retains the responsibility for its personnel or contractors assigned to provide the services required hereunder and, with respect to employees, will make all necessary deductions for social security and withholding taxes, contributions for employment compensation funds, and shall maintain at its expense all necessary insurance for its employees including, but not limited to, worker's compensation

coverage.

XVII.

EQUAL OPPORTUNITY

17.1 ENMNOEHA shall comply with the requirements of Title VII of the Civil Rights Act of 1964, and other applicable laws, rules and regulations; and ENMNOEHA agrees that it shall not discriminate against employees, contractors, or applicants for employment or contracts due to race, color, creed, religion, sex, gender identification, sexual orientation, age, ancestry, national origin, physical condition, or disability.

XVIII.

WAIVER OF BREACH

18.1 The waiver by any party of a breach or violation of any provision of the Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the Agreement.

XIX.

NOTICE

19.1 Any notice, demand, communication or payment required under the Agreement shall be deemed effectively given when personally delivered or mailed by prepaid certified mail, return receipt requested, to the Chief Executive Officer or Executive Director or Deputy Director of a party at its principal place of business as listed in Section 19.2 below or to such other address and to the attention of such other person as either party may designate by written notice.

19.2 The principal place of business of each party hereto is as follows:

Ernest N. Morial New Orleans Exhibition Hall Authority
900 Convention Center Boulevard
New Orleans, Louisiana 70130
Attn: Executive Vice-President

Regional Transit Authority
6700 Plaza Drive
New Orleans, Louisiana 70127
Attn: Chairman of the Authority

The New Orleans Tourism Marketing Corporation
365 Canal Street, Suite 1120
New Orleans, Louisiana 70124
Attn: Executive Vice President

A copy of any notice of an alleged default required to be sent to ENMNOEHA hereunder shall simultaneously be sent to:

Matt Chenevert, Esquire,
Ernest N. Morial New Orleans Exhibition Hall Authority,
900 Convention Center Boulevard
New Orleans, Louisiana 70130

A copy of any notice of an alleged default required to be sent to NOTMC hereunder shall simultaneously be sent to:

Graymond Martin
650 Poydras Street, Suite 1515
New Orleans, Louisiana 70130

A copy of any notice of an alleged default required to be sent to the RTA hereunder shall simultaneously, be sent to:

The Mayor of the City of New Orleans
1300 Perdido Street, Room 2E10
New Orleans, Louisiana 70112

AND

Salvador Anzelmo, Esq.
RTA Special Counsel
One Canal Place, Suite 2800
365 Canal Street
New Orleans, Louisiana 70130

XX.

MULTIPLE ORIGINALS

20.1 The Agreement and amendments thereto shall be in writing and executed in multiple originals on behalf of the parties; and each multiple shall be equally deemed to be an original.

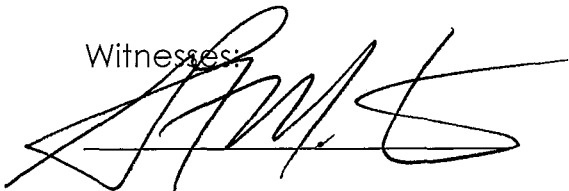
XXI.

SOLE AGREEMENT

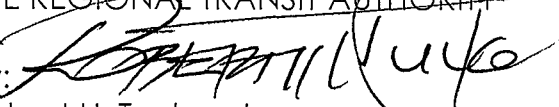
21.1 The parties hereby agree that except as otherwise expressly provided herein this Agreement (including the provisions incorporated herein by reference) constitutes the sole and complete agreement between them on the subject matter encompassed hereby and supersedes all previous understandings, negotiations, and/or agreements on said subject matter, and no word, provision, clause or paragraph shall be changed, amended or altered in any manner whatsoever except with the written consent of the parties hereto as provided in Section 10.1.

This Agreement is made and executed in multiple originals by the Ernest N. Morial New Orleans Exhibition Hall Authority, the Regional Transit Authority, and the New Orleans Tourism Marketing Corporation, by and through their undersigned duly-authorized representatives on the date(s) and in the presence of the witnesses hereinafter set forth below and is approved by the Mayor of the City of New Orleans.

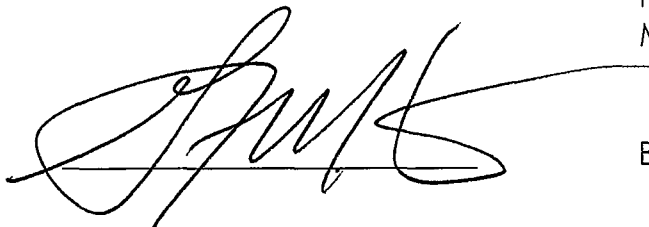
Witnesses:


Matthew Chenvert

THE REGIONAL TRANSIT AUTHORITY


By: 
Robert H. Tucker, Jr.
Chairman, Board of Commissioners

NEW ORLEANS TOURISM
MARKETING CORPORATION


Matthew Chenvert

By: 
Sandra Shilstone
Executive Vice President and Director
of Marketing

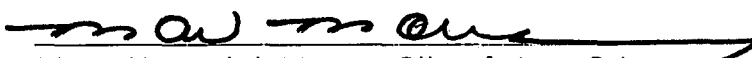
ERNEST N. MORIAL NEW ORLEANS
EXHIBITION HALL AUTHORITY


Matthew Chenvert

By: 
Ralph Brennan, its President

Approved this 2

day of Apr., 2002.

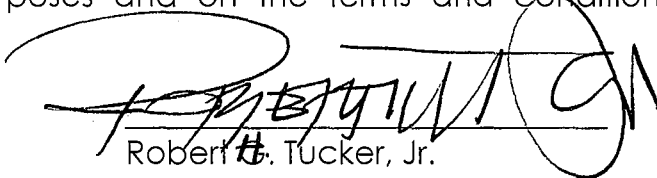

Marc H. Morial, Mayor, City of New Orleans

ACKNOWLEDGMENT

STATE OF LOUISIANA

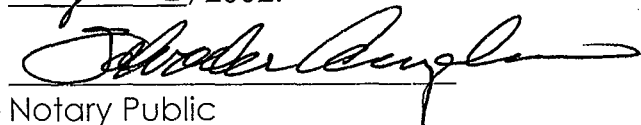
PARISH OF ORLEANS

Before me, the undersigned notary public, personally came and appeared Robert H. Tucker, Jr., who after being duly sworn, deposed and stated that he is the Chairman of the Board of Commissioners of the Regional Transit Authority, that he is duly authorized to execute the above and foregoing agreement for a cooperative endeavor on behalf of the Regional Transit Authority, and that, in his capacity as Chairman of the Board of Commissioners of the Regional Transit Authority, he executed same for the purposes and on the terms and conditions therein expressed.



Robert H. Tucker, Jr.

Sworn to and subscribed before me,
Notary Public, this 2nd day of
April, 2002.



Notary Public

ACKNOWLEDGMENT

STATE OF LOUISIANA

PARISH OF ORLEANS

Before me, the undersigned notary public, personally came and appeared Sandra Shilstone, who after being duly sworn, deposed and stated that she is the Executive Vice President and Director of Marketing of the New Orleans Tourism Marketing Corporation, that she is duly authorized to execute the above and foregoing agreement for a cooperative endeavor on behalf of the New Orleans Tourism Marketing Corporation, and that, in her capacity as the Executive Vice President and Director of Marketing of the New Orleans Tourism Marketing Corporation, she executed same for the purposes and on the terms and conditions therein expressed.

Sandra Shilstone

Sworn to and subscribed before me,
Notary Public, this ____ day of
_____, 2002.

Notary Public

ACKNOWLEDGMENT

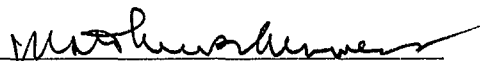
STATE OF LOUISIANA

PARISH OF ORLEANS

Before me, the undersigned notary public, personally came and appeared Ralph Brennan, who after being duly sworn, deposed and stated that he is the President of the Ernest N. Morial New Orleans Exhibition Hall Authority, that he is duly authorized to execute the above and foregoing agreement for a cooperative endeavor on behalf of the Ernest N. Morial New Orleans Exhibition Hall Authority, and that, in his capacity as the President of the Ernest N. Morial New Orleans Exhibition Hall Authority, he executed same for the purposes and on the terms and conditions therein expressed.

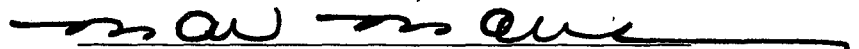

Ralph Brennan

Sworn to and subscribed before me,
Notary Public, this 2nd day of
April, 2002.

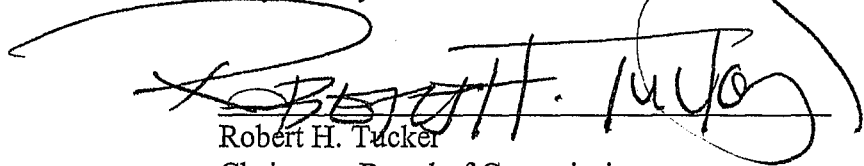

Notary Public

APPROVAL AND COMMITMENT AGREEMENT

On this the 2nd day of April, 2002, Marc H. Morial, the Mayor of the City of New Orleans hereby concurs in approving, and we, the undersigned representatives of the Regional Transit Authority (RTA), the Ernest N. Morial New Orleans Exhibition Hall Authority (EMNOEHA), the New Orleans Tourism Marketing Corporation (NOTMC), hereby concur in agreeing on and approving the attached Phase IV Escrow Fund Agreement and commit to present same to the Boards of Commissioners of the RTA and the ENMNOEHA and the Board of Directors of the New Orleans Tourism Marketing Corporation for ratification, said Agreement to become effective as provided therein.



Marc H. Morial
Mayor, City of New Orleans



Robert H. Tucker
Chairman, Board of Commissioners
Regional Transit Authority



Raphael Brem
President
Ernest N. Morial New Orleans Exhibition
Hall Authority



Sandra Shilstone
Executive Vice President and Director
New Orleans Tourism Marketing Corporation